## REMARKS

Applicant's attorney wishes to express his appreciation to the Examiner for the constructive comments set forth in the August 19, 2004 Office Action. Claim 1 has been amended to bring out the salient features of applicant's invention.

Specifically, claim 1 has been amended, for the sake of clarity, to point out that the electrician's measurement apparatus can be used to mount electrical boxes, switches, and outlets at different heights that are unrelated to each other and correspond to heights specified by industry standards or building codes. This amendment brings out a salient feature of the invention delineated by claim 1, namely, that an electrician can use one slot located on the electrician's measurement apparatus to mount an outlet box according to industry standards. Subsequently the electrician can use another slot located on the identical electrician's measurement apparatus to mount a countertop outlet conforming to a different, unrelated industry standard for countertop outlets. The amendment to claim 1 is clearly supported by page 7, lines 23 to 27 of the original specification. In particular, it is disclosed by the specification that one slot is placed at about 16 inches from one end and used to mark the placement of outlet boxes. The specification also teaches at page 7, lines 23 to 27 that another slot is used to determine the height of counter height outlets while yet another slot is used for standard wall switches.

The electrician's measurement apparatus called for by claims 1-6, provides an accurate mechanism that precisely locates an electrical junction box (the size and shape of which may vary considerably) at a selected distance from the floor, thereby meeting applicable code requirements and maintaining the box "in level" without necessity of additional measurement hardware.

The apparatus has a built-in level and preselected slots at most commonly used distances for locating switches, electrical boxes and the like. Indicia marked on each edge of the apparatus

indicate precise distances therefrom. The device is placed on the floor with one end resting on the highest point on the floor, regardless of whether the floor is "in level" or not. In some cases, only one edge of the side rests on the floor when the apparatus is leveled, using the built-in level. When a leveled condition is achieved, the apparatus is oriented precisely in a vertical position. The location of the box is "marked off" using the slot or using the indicia marked on each edge of the apparatus. Advantageously, the markings made create box-locating points that enable the box to be precisely leveled and located at a fixed, preselected distance from the floor in compliance with applicable code requirements.

Claims 1and 2 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,222,303 to Jardine in view of U.S. Patent to 2,992,490 Hay et al and U.S. Patent 2,713,203 to Gottlieb.

Jardine discloses a template for locating the proper placement of junction boxes and for marking a section of wall to be cut out to accommodate a junction box. The template comprises a first portion 12 with a first end 14 and a second end 15 defining an aperture 16 of predetermined size. The dimensions of the aperture are similar to the dimensions of a junction box or other electrical communication device receptacle, but smaller than a device cover plate. This arrangement of Jardine's template allows the shape of a junction box to be traced on a wall. A first portion of Jardine's template has a predetermined length so as to allow the aperture to be positioned at a predetermined height above a floor. Jardine also discloses several different embodiments in which the predetermined height of the template can be altered through the use of a hinged end 24 or through the use of serrations in the first end that allow portions of the first end to be broken off at the serration.

Hay et al. discloses a universal template for outlining openings in wallboard. The template includes a plate and a pair of pins. After the template has been attached to the outer, open end of an electrical box, a piece of wallboard is pressed against the plate, so that the wallboard is pierced by the pins. The plate can then be detached from the electrical box and placed on the wallboard. Slots in the plate are used as guide lines for cutting an access opening in the wallboard compatible with the outer configuration of the electrical box.

The Examiner has stated that it would have been obvious to one having ordinary skill in the art to modify the apparatus disclosed by Jardine by replacing the aperture with apertures as taught by Hay, in order to allow a user to mark the location of boxes having different sizes on a wall. The Examiner has acknowledged that Jardine does not disclose a template having a plurality of slots disposed on the body at a plurality of locations, each slot determining the placement of electrical boxes. For that disclosure, the Examiner has relied on the teaching of Hay. The Examiner has stated that Hay discloses a template for marking the location of electrical boxes, the template having a plurality of slots disposed on the body at a plurality of locations, each determining placement of the electrical boxes. According to the Examiner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the template disclosed by Jardine by replacing the structure which forms the aperture with the slotted structure disclosed by Hay, since these structures are alternative and equivalent structures for marking the position of an electrical box. The slots disclosed by Hay are used as guide lines for cutting an access opening in the wallboard compatible with the outer configuration of the electrical box. Thus, the slots disclosed by Hay are inherently related to each other. By way of contras, the slots of the electrician's measuring apparatus called for by claims 1 and 2 are not inherently related to each other. The electrician's measurement apparatus defined by present claims 1 and 2 can be used to mount electrical boxes,

switches, and outlets at different heights that are inherently unrelated and correspond to heights specified by industry standards or building codes.

Furthermore, the teaching in two of Jardine's alternative embodiments points away from a device that is capable of marking multiple heights. In the embodiment depicted by Jardine's Fig. 2, a serration 34 is provided to allow a portion of first portion 12 to be broken off to change the overall length thereof and allow positioning of an electrical box at a single different, and of course, lower height. Clearly, such a choice permanently and irreparably alters the device, thereby precluding its use at the original length. Advantageously, the slots located on applicant's claimed electrician's measurement apparatus for determining placement of the electrical boxes, switches and outlets in accordance with a selected standard or code permit a single electrical box, switch, or outlet to be located at different heights that are inherently unrelated, whereas the serrated device disclosed by the combination of Jardine and Hay would not.

The Examiner has further stated that it would have been obvious to modify the device disclosed by Jardine by providing another set of indicia on the other edge of the body, since Gottlieb teaches that placing indicia directly along both side edges of the body can facilitate marking a horizontal line along both sides of the body. The Examiner also stated that mere duplication of the essential working parts of a device involves only routine skill. However, the two sets of indicia located on the electrician's measurement apparatus called for by applicant's claims, as amended, work in combination with the level to allow the precise placement of a electrical box, switch, or outlets even on an irregular surface. When an end of the apparatus called for by present claims 1 and 2 is placed on the floor, one of the sides of the apparatus opposing the end need not come in contact with the floor; and the presence of this condition depends on the contour of the floor. Accordingly, the measurements that are indicated by indicia on opposing edges of applicant's claimed apparatus do not necessarily correspond to distances from the floor; but correspond,

instead, to a distance "in level" from the highest point on the floor. Similarly, the slot required by the apparatus of present claims 1 and 2 does not represent positions that are equidistant from the floor; but rather, represents locations which are at preselected distances from the highest point on the floor which is "in level". Therefore, the indicia points at each edge of applicant's claimed apparatus are not used in the conventional way that one would use a simple measurement device containing scales or rulers with markings on either side. Rather, in the apparatus called for by present claims 1 and 2, the built-in level and opposing sets of indicia are used collectively to assure accurate, efficient, "in level" location of electrical boxes in compliance with applicable standards and codes despite irregularities owing to surface roughness of the floor. It is therefore respectfully submitted that the set of indicia on each edge of the electrician's measurement apparatus, when used in conjunction with the level, would not be obvious over the combination of Jardine, Hay and Gottlieb.

In addition the Examiner has stated that it would have been obvious to modify the apparatus disclosed by Jardine by adding a textual portion of codes or standards on the apparatus since Gottlieb teaches that providing text of building laws or other requirements allows an inexperienced individual using the apparatus to conform to building laws and other requirements. It is respectfully submitted, however, that claim 2 is directed to a preferred embodiment of the electrician's measurement apparatus called for by claim 1, and includes the limitations thereof. Thus, the amendment to claim 1 overcomes the rejection of claim 2 as being obvious over the combination of Jardine, Hay and Gottlieb.

Accordingly, reconsideration of the rejection of claims 1 and 2 under 35 USC § 103(a) as being obvious over the combination of Jardine, Hay and Gottlieb is respectfully requested.

Claim 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jardine in view of Hay, Gottlieb as applied to claims 1 and 2 above, and further in view of U.S. Patent 6,571,487 to

Canalle. Applicant respectfully submits that claim 5 is directed to a preferred embodiment of the electrician's measurement apparatus called for by claim 1, and include the limitations thereof. Thus, the amendment to claim 1 overcomes the rejection to claim 5 as being obvious over the combination of Jardine, Hay, Gottlieb and Canalle Accordingly, reconsideration of the rejection of claim 5 under 35 USC § 103(a) as being obvious over the combination of Jardine, Hay, Gottlieb and Canalle is respectfully requested.

In view of the amendment to claim 1 and the remarks set forth above, it is submitted that the present application is in allowable condition. Reconsideration of the rejection of claims 1 – 2 and 5, as amended, and their allowance, are earnestly solicited.

Respectfully submitted,
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